GJN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
07 DEC 26 AM 11:32
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES OF AMERICA,	)	Magistrate Docket No. '07 MJ 2973
Plaintiff,	)	
	)	COMPLAINT FOR VIOLATION OF:
v.	)	
	)	Title 8, U.S.C., Section 1326
Efrain ROJAS-Ibanez,	)	Deported Alien Found in the
	)	United States
	)	
Defendant	)	
	)	

The undersigned complainant, being duly sworn, states:

On or about **December 23, 2007** within the Southern District of California, defendant, **Efrain ROJAS-Ibanez,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **26th** DAY OF **DECEMBER 2007.**

Leo S. Papas
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Efrain ROJAS-Ibanez

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On December 23, 2007, Border Patrol Agent G. Custenborder was assigned to line watch duties along the U.S./Mexico International Boundary. At approximately 6:30 PM, Agent Custenborder responded to a seismic intrusion device in an area known as the "25 saddle". This position is located in the Chula Vista area of operations, approximately three miles east of the Otay Mesa, California Port of Entry and one half mile north of the U.S./Mexico International Boundary.

Upon Agent Custenborders arrival in the vicinity of the device, Border Patrol scope operator Agent S. Session was able to observe two individuals running away from Agent Custenborders location. After a brief foot chase Agent Custenborder was able to locate the two individuals attempting to conceal themselves in some thick brush. Agent Custenborder approached and identified himself as a United States Border Patrol Agent and began to question the individuals as to their citizenship. Both subjects, including one later identified as the defendant **ROJAS-Ibanez, Efrain**, replied they were both citizens and nationals of Mexico without immigration documents that would allow them to be or remain in the United States legally. Both subjects were then arrested and transported to the Chula Vista Border Patrol Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **May 25, 2006** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights, which he stated he understood and was willing to answer. The defendant freely admitted that he is a citizen and national of Mexico. The defendant stated that he illegally crossed the United States/Mexico border through the mountains. The defendant stated he does not have any immigration documents that would allow him to enter or remain in the United States legally. The defendant also stated his final destination was San Diego, California to visit his children.

Executed on December 25, 2007 at 9:30 A.M.

Raul Castorena
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **December 23, 2007**, in violation of Title **8**, United States Code, Section **1326**.

Leo S. Papas
United States Magistrate Judge

12/25/07 - 1125Am
Date/Time